

ESTTA Tracking number: **ESTTA385126**

Filing date: **12/22/2010**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91196148
Party	Defendant H.H. Franchising Systems, Inc.
Correspondence Address	JEFFREY D. SIEHL 10700 MONTGOMERY RD STE 300 CINCINNATI, OH 45242-3296 jsiehl@franchisesupport.net
Submission	Answer
Filer's Name	Jeffrey D. Siehl
Filer's e-mail	jsiehl@franchisesupport.net
Signature	/Jeffrey D. Siehl/
Date	12/22/2010
Attachments	Answer (Opp. No. 91196148).pdf (4 pages)(9319 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Caring Hearts of Sedona, LLC,)	
)	
Opposer,)	
)	Opposition No. 91196148
vs.)	
)	Mark: CARING HEARTS
H.H. Franchising Systems, Inc.,)	
)	Serial No. 77799901
Applicant.)	
)	
)	
)	
)	

APPLICANT’S ANSWER TO NOTICE OF OPPOSITION

Applicant, H.H. Franchising Systems, Inc. (“Applicant”) hereby submits its Answer to the Notice of Opposition filed by Opposer, Caring Hearts of Sedona, LLC (“Opposer”) as follows:

1. Applicant admits the allegations in paragraph 1 of the Notice of Opposition.
2. Applicant admits the allegations in paragraph 2 of the Notice of Opposition.
3. Applicant admits the allegations in paragraph 3 of the Notice of Opposition.
4. Applicant admits the allegations in paragraph 4 of the Notice of Opposition.
5. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 5 of the Notice of Opposition and therefore denies those allegations.

6. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 6 of the Notice of Opposition and therefore denies those allegations.

7. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 7 of the Notice of Opposition and therefore denies those allegations.

8. Paragraph 8 of the Notice of Opposition states a legal conclusion to which no response is required. To the extent that paragraph 8 contains any factual allegations, Applicant denies those allegations.

9. Paragraph 9 of the Notice of Opposition states a legal conclusion to which no response is required. To the extent that paragraph 9 contains any factual allegations, Applicant denies those allegations.

AFFIRMATIVE DEFENSE & ALLEGATION

1. Opposer has failed to state a claim upon which relief may be granted.

2. The doctrines of laches, acquiescence, waiver and/or estoppel bar Opposer from contesting the registration for Applicant's Mark. Opposer has acquiesced to numerous third party uses of the mark CARING HEARTS in connection with in-home care services.

3. Applicant reserves the right to file additional affirmative defenses in this matter as more information is discovered.

WHEREFORE, Applicant requests that the Notice of Opposition be dismissed in its entirety and that a registration be issued with respect to the subject application.

Dated: December 22, 2010

Respectfully submitted,

/Jeffrey D. Siehl/

Jeffrey D. Siehl

General Counsel

H.H. Franchising Systems, Inc.

10700 Montgomery Rd., Ste. 300

Cincinnati, OH 45242

Telephone: (513) 587-4980

Facsimile: (513) 563-2691

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing Answer was served by United States first class mail, postage prepaid, this 22nd day of December, 2010, upon counsel for the Opposer:

Christopher J. Day
Law Office of Christopher Day
301 East Bethany Home Road, Suite A-213
Phoenix, AZ 85012

/Jeffrey D. Siehl/
Jeffrey D. Siehl